

## **REMARKS**

Following entry of the foregoing amendments, claims 17 to 21 will be pending in this patent application. Claims 17 to 19 have been amended herein. No claims have been canceled, and no new claims have been added. Support for the amendments is found throughout the specification as originally filed, and the amendments thus do not introduce new matter into the application.

Applicant respectfully requests reconsideration of the rejections of record in view of the foregoing amendments and the following remarks.

### **Alleged Indefiniteness**

Claim 17 has been rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite because insufficient antecedent basis allegedly exists for the term “the reservoir” in line 2 of the claim and for the phrase “the reservoir housing” in lines 4, 5, and 8 of the claim. Without conceding the correctness of the assertion, and to advance prosecution, claim 17 has been amended herein to add the phrase “a reservoir” to line 2 of the claim and to replace each instance of the phrase “the reservoir housing” with the phrase “the non-conductive housing.” Claims 18 and 19 have also been amended to replace the phrase “the reservoir housing” with the phrase “the non-conductive housing.” The rejection has thus been obviated, and applicant accordingly, respectfully, requests withdrawal thereof.

### **Alleged Anticipation**

A. Claims 17 to 21 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. patent number 5,857,994 (“the Flower patent”). Applicant respectfully requests reconsideration and withdrawal of the rejection because the Flower patent fails to teach or suggest every limitation of the claims.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”<sup>1</sup> The Flower patent fails

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<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

to describe every limitation of the pending claims, and, thus, fails to anticipate the claimed subject matter. Specifically, the Flower patent does not describe an electrically conductive element *integrally molded* within a non-conductive electrotransport device reservoir housing. Moreover, the patent does not teach or suggest that a *first portion of the conductive element is within the non-conductive housing and a second portion of the element is disposed on the outside of the non-conductive housing and extends therefrom*. The Flower patent thus fails to teach or suggest every limitation of the claims.

As best understood, the Office appears to assert that the electronic interconnector 26 depicted in figure 1 of the Flower patent is integrally molded within patch 4, and, thus, appears to assert that electronic interconnector 26 corresponds to the claimed electrically conductive element and patch 4 corresponds to the claimed non-conductive housing. As shown in figure 1 of the Flower patent, however, the electronic interconnector 26 is not *integrally molded* within patch 4, a first portion of interconnector is not *within* the patch, and a second portion of the interconnector is not *disposed on the outside of the patch* and thus does not *extend from the patch*. As the patent teaches, conductive pads 34 on extending narrow tab 32 are the portion of the device that extend outside of patch 4 to electrically connect electrodes 8 and 10 to the controller 2. The patent explains that conductive pads 34 are “exposed,” which those skilled in the art would readily understand to mean that they are on the outside of the patch, in contrast to the electrical connectors, which are not “exposed.” Specifically, the patent teaches that “electrical connectors 26 may be one or more conductive paths extending from the electrodes 8 and 10 to exposed conductive pads 34.”<sup>2</sup> Accordingly, the electrical connectors 26 are located *within* patch 4 and extend from electrodes 8 and 10 to the conductive pads 34, a portion of which are located outside patch 4 and electrically connect electrodes 8 and 10 to controller 2.

Although the Office asserts that figure 2 of the Flower patent teaches that a portion of electrical connectors 26 are located within patch 4 and another portion of electrical connectors 26 are located on the outside of patch 4, and extend therefrom, figure 2 of the patent does not illustrate this. In figure 2, which is a *block diagram*, patch 4 is illustrated with *dashed lines*,

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<sup>2</sup> Col. 4, lines 63 to 65.

which, as understood by those skilled in the art, indicate that the drawing does not include a true representation of the patch, but, rather, includes an altered representation of the patch in order to illustrate other features of the depicted device. Those skilled in the art, *when considering the teachings and description of the Flower patent as a whole*, would recognize that figure 2 does *not* indicate that a portion of electrical connectors 26 are located within patch 4 and another portion of electrical connectors 26 are located on the outside of patch 4. Rather, as discussed above, the Flower patent actually indicates that the *entirety* of electrical connectors 26 are located *within* patch 4, and conductive pads 34 extend outside of patch 4 to connect electrodes 8 and 10 to controller 2.

Accordingly, the Flower patent fails to describe or suggest an electrotransport device that comprises a non-conductive housing for the reservoir of the device that comprises a substantially flexible electrically conductive element *integrally molded* within the non-conductive housing, wherein a *first portion of the conductive element is within the non-conductive housing and a second portion of the element is disposed on the outside of the non-conductive housing and extends therefrom*. The Flower patent thus fails to teach or suggest every element of the claims, and, therefore, fails to anticipate the claimed subject matter. Applicant accordingly, respectfully, requests withdrawal of the rejection. If the rejection is maintained, Applicant respectfully asks the Office to identify and ***describe precisely*** how the claimed subject matter is allegedly described in the Flower patent, rather than simply providing conclusory statements that the patent describes the claimed subject matter while identifying elements of the figures of the patent.

**B.** Claims 17 to 21 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. patent number 5,857,994 (“the Kuribayshi patent”). Applicant respectfully requests reconsideration and withdrawal of the rejection because the Kuribayshi patent fails to teach or suggest every limitation of the claims.

Similar to the situation with the Flower patent, the Kuribayshi patent fails to describe or suggest an electrotransport device comprising a reservoir and a non-conductive housing for the reservoir that comprises a substantially flexible electrically conductive element *integrally molded*

within the non-conductive housing, wherein a *first portion of the conductive element is within the non-conductive housing and a second portion of the element is disposed on the outside of the non-conductive housing and extends therefrom.*

As best understood, the Office appears to assert that electrode layers 14 and 15 of the devices described in the Kuribayshi patent, which are depicted in figure 6(c), and one of which is designated “2” in figure 1(c), correspond to the claimed electrically conductive element. The Office also appears to assert that backing 1 corresponds to the claimed non-conductive housing, and appears to further assert that electrode layers 14 and 15 are integrally molded within backing 1. Even if electrode layers 14 and 15 were to function as substantially flexible electrically conductive elements, which Applicant does not concede, figure 3 and figure 6(c) of the Kuribayshi patent clearly illustrate that electrode layers 14 and 15 are not *integrally molded* within a non-conductive housing. Moreover, as is further evident from figures 3 and 6(c) of the Kuribayshi patent, a first portion of electrode layers 14 and 15 is not located within a non-conductive housing and a second portion of electrode layers 14 and 15 does not extend from a non-conductive housing. As seen in figures 3 and 6(c) of the Kuribayshi patent, the electrode layer is located between insulating layer 3 and backing 1, but a portion of the electrode layer makes direct contact with conductive layer 9 and with cover member 8 where insulating layer 3 is not present. Accordingly, the electrode layer is necessarily *not integrally molded* within a non-conductive housing, and, thus, a first portion of the electrode layer is not located within a non-conductive housing and a second portion of the electrode layer is not located on the outside of a non-conductive housing and does not extend from the housing.

Accordingly, the Kuribayshi patent fails to describe or suggest an electrotransport device that comprises a non-conductive housing for a reservoir of the device that comprises a substantially flexible electrically conductive element *integrally molded* within the non-conductive housing, wherein a *first portion of the conductive element is within the non-conductive housing and a second portion of the element is disposed on the outside of the non-conductive housing and extends therefrom.* The Kuribayshi patent thus fails to teach or suggest every element of the claims, and, therefore, fails to anticipate the claimed subject matter.

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**PATENT**

Applicant accordingly, respectfully, requests withdrawal of the rejection. If the rejection is maintained, Applicant respectfully asks the Office to identify and *describe precisely* how the claimed subject matter is allegedly described in the Kuribayshi patent, rather than simply providing conclusory statements that the patent describes the claimed subject matter while identifying elements of the figures of the patent.

### **Conclusion**

Applicant believes that the foregoing constitutes a complete and full response to the official action of record. Accordingly, an early and favorable action is respectfully requested.

Respectfully submitted,

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